

Serial No. 10/630,627

RESPONSE TO FINAL OFFICE ACTION WITH 37 CFR § 1.114 RCE REQUEST

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REMARKS

With entry of this Response, Claims 1, 3, 4, and 6-17, 19-24 are pending, with Claims 1, 3, 4, 6-10, 18-20 withdrawn, and Claims 11-17, 21-24 under examination. By the present Response, Claims 1, 3, 4, 7, 11-17, and 21 are amended; Claims 18-20 are canceled; and Claim 22-24 are added. The amendment to the claims is supported by the application as originally filed, and does not introduce new matter issues or raise issues requiring further consideration or searches. Applicants respectfully submit that the amendment to the claims places the claims in condition for allowance. It is respectfully requested that the Examiner reconsider the claims in view of the following remarks.

Rejection of Claims 11-17 under 35 U.S.C. § 102(b)

Claims 11-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,270,358 to Asmus (hereinafter, "Asmus"). Applicants respectfully traverse the rejection in view of the present amendments.

The newly amended claims now recite that the pressure sensitive adhesive-free composition of the present invention comprises at least one active ingredient, wherein the at least one active ingredient comprises a weak organic acid in an amount effective to treat a condition (e.g., a pathological condition) of a dermal structure (e.g., nail).

Applicants respectfully submit that Asmus does not disclose the use of any organic acids as active ingredients and does not teach an amount that would be effective to treat a condition of a dermal structure. It is respectfully submitted that, though stated by the Examiner that "Asmus discloses a transdermal composition comprising ... the organic acid of instant claim 11 (*see* col. 14, line 52)", Applicants submit that Asmus teaches at column 14, lines 49-52 of Asmus, "[a]s described in Chapter 18 of the *Handbook of Pressure Sensitive Adhesive Technology 2nd Ed.*, supra, a catalyst (such as an organic peroxide, an amino silane, or a metal salt of an organic acid) is added to reinforce the silicone network, increasing cohesiveness". This teaching does not disclose the use of a weak organic acid as an active ingredient of a pressure sensitive adhesive-free composition. Therefore, Claims 11-17, along with Claims 21-24, of the present application are not anticipated by the teachings of Asmus and are patentable over Asmus.

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Furthermore, Applicants respectfully submit that Asmus discloses a two phase composite composition of particles of gel of a swollen hydrocolloid dispersed in a pressure sensitive adhesive matrix. "[T]he composite adheres to the surface of the skin of the patient and maintains that surface in as dry an environment as can occur where the skin or skin opening exudes perspiration, or other body fluids." (see Col. 4, lines 48-51). Asmus repeatedly teaches that the composite has a "high moisture vapor transmission rate" and that the "high moisture vapor transmission rate property provided by the gel facilitates removal of the moisture or other fluid from the area where the composite is adhered." (Col. 3, lines 45-48; see also as examples of this teaching, Abstract; Col. 2, lines 36-37; and Col. 4, line 19).

Applicants' currently claimed invention provides moisture to the dermal structure that it contacts and hydrates that dermal structure. In Asmus, there is no teaching of providing moisture to the application site, and in fact, there is clear teaching against providing moisture to the site by the multiple and repeated requirements for removal of moisture to maintain adhesion to the site.

Therefore, Asmus does not teach each and every element of the currently amended claims, and thus does not suffice as an anticipatory reference. Applicants respectfully request that the Examiner withdraw the rejection.

FEES

No Claims fees are due, as the total number of Claims and independent Claims, remains less than twenty and three, respectively.

This Response is being filed within six months of the Final Office Action, and more specifically within four months. A petition for a one-month extension of time to extend the time to respond to the Final Office Action and the Advisory Action to June 25, 2007, is respectfully requested. The Commissioner is authorized to charge the \$60 fee for the one-month extension of time, the \$395 fee for filing the Request for Continued Examination, as well as any deficiency, or credit any overpayment to Deposit Account No. 20-1507. The fees are for a small entity.

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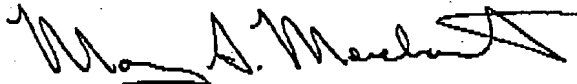
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CONCLUSION

The foregoing is a complete response to the Final Office Action mailed February 23, 2007, and the Advisory Action mailed May 17, 2007. Applicants respectfully submit that at least Claims 11-17 and 21-24 are patentable. Applicants also respectfully request rejoinder of the withdrawn claims with the allowed subject matter when agreement is reached. Early and favorable consideration is solicited.

If the Examiner believes there are other issues that can be resolved by a telephone interview, or that there are any informalities that remain in the application which may be corrected by the Examiner's amendment, a telephone call to the undersigned agent at (404) 885-3652 is respectfully solicited.

Respectfully submitted,



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